

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SHALOM B. MUNITZ

Plaintiff,

v.

PENN CREDIT CORPORATION
VERIZON

Defendants.
-----X

COMPLAINT FOR VIOLATION
OF THE FAIR DEBT COLLECTION
PRACTICES ACT

Plaintiff Demands Trial by Jury

JUDGE KARAS

08 CIV. 6207

Plaintiff, by and through his undersigned attorney, alleges, upon knowledge as to
his own acts and otherwise upon information and belief, as follows:

INTRODUCTION

1. This is a civil action for damages and declaratory relief by individual consumers for Defendant's repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. 1692, et seq., (hereinafter FDCPA).
2. This action is instituted to recover damages and costs of suit, including reasonable attorneys' fees, against defendants for the injuries sustained by plaintiffs by reason of the violations alleged in this Complaint. This action is also instituted to secure injunctive relief against defendants to prevent further threatened harm and damage to plaintiff.

JURISDICTION AND VENUE

3. Jurisdiction of the Court arises under 28 U.S.C. 1331 in that this dispute involves predominant issues of federal law. Defendants violated the provisions of the FDCPA. Declaratory relief is available pursuant to 28 U.S.C. 2201 and 2202. Supplemental jurisdiction exists for the state law claims pursuant to 28 U.S.C. 1367. Venue in this

District is proper in that Defendants transact business here and the conduct complained of occurred here.

PARTIES

4. Plaintiff, SHALOM B. MUNITZ resides at 4 Tauber Terrace Monsey, NY 10952, and is a consumer pursuant to the FDCPA.
5. Defendant, PENN CREDIT CORPORATION (hereinafter "Penn Credit") is a debt collection agency with its corporate office located at 916 South 14th Street, Harrisburg, PA 17104, and is a Debt collector pursuant to the FDCPA.
6. Defendant, VERIZON is a telephone service provider with its corporate headquarters located at 140 West St., New York, New York, 10007.

FACTUAL ALLEGATIONS

7. On May 22, 2008, Plaintiff received a debt collection letter from Defendant Penn Credit Corporation attempting to collect a debt for Defendant Verizon in the amount of \$194.64.
8. The collection letter states that the debt was from Verizon for telephone charges incurred on February 26, 1993.
9. This debt is fifteen years old, and therefore barred from collection by New York's six year Statute of Limitation for debt collection.
10. Additionally, Plaintiff Shalom B. Munitz filed for Bankruptcy in 1997, and this Verizon debt was discharged in the bankruptcy.
11. Upon information and belief, Verizon negligently sold the debt to Penn Credit Corporation for collection.

FIRST CLAIM: VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

12. The allegations of paragraphs 1-11 in this pleading are incorporated as if fully rewritten herein.
13. Defendants violated 15 U.S.C. 1692 e(2) by misrepresenting the legal status of the alleged debt as collectable.
14. Defendants violated 15 U.S.C. 1692 e(10) by falsely representing they had the right to collect this debt.
15. Defendants violated 15 U.S.C. 1692f(1) by attempting to collect an amount not authorized or permitted by law.
16. As a direct and proximate result of these violations, Plaintiff has been injured.
17. As a direct and proximate result of the above violations of the FDCPA, Defendants are liable to Plaintiff for declaratory judgment that Defendants' conduct violated the FDCPA, and Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

NEGLIGENCE

THIRD CLAIM: NEGLIGENCE

18. The allegations of paragraphs 1-17 in this pleading are incorporated as if fully rewritten herein.
19. Defendant Verizon had a duty of care to Plaintiff in maintaining the accuracy of Plaintiff's account, including payments, deleting a discharged debt, and making sure that the debt was still collectable before selling or assigning it to a collection agency for collection.

20. Defendant Verizon negligently breached this duty by selling and/or assigning the alleged debt to Penn Credit Corporation for collection.
21. Defendant Verizon intentionally, willfully and maliciously and/or negligently sold a time barred and discharged debt.
22. Defendant Penn Credit Corp had a duty to Plaintiff to investigate and ensure that the alleged debt was legally collectable.
23. Defendant Penn Credit Corp intentionally, willfully and maliciously and/or negligently attempted to collect a debt which they had no legal right to.
24. As a direct and proximate result of these violations, Plaintiff has been injured.
25. As a direct and proximate result of Defendants' negligence, Defendants are liable to Plaintiff for declaratory judgment that Defendants' conduct was negligent, and Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

JURY DEMAND

Plaintiff hereby demands a Trial by Jury.


WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendants for the following:

- A. Declaratory judgment that Defendants' conduct violated the FDCPA, and injunctive relief for Defendants' violations of the FDCPA;
- B. Declaratory judgment that Defendants' conduct was negligent, and injunctive relief for Defendants' negligence;
- C. Statutory damages, where applicable;
- D. Actual damages as proven at trial, on each and every claim;
- E. Punitive damages;

F. Costs and reasonable attorney fees; and

G. For such other and further relief as may be just and proper.

DATED: June 25, 2008
Spring Valley, NY

_____/s/ 
Shmuel Klein (SK 7212) Fed Court Only
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